TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 935.

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

FOUR HUNDRED PACKAGES OF DISTILLED SPIRITS; ROSWELL C. MERSEREAU, CLAIMANT.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

FILED OCTOBER 21, 1878.

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1 Pleas in the circuit court of the United States for the northern district of Illinois, held at the United States court-rooms in the city of Chicago in the district aforesaid, before the judges thereof, on Monday the thirtieth day of September, in the year of our Lord one thousand eight hundred and seventy-eight, and of our Independence the one hundred and third.

WILLIAM H. BRADLEY, *Clerk.*

THE UNITED STATES OF AMERICA
vs.
FOUR HUNDRED PACKAGES OF DISTILLED SPIRITS.

NORTHERN DISTRICT OF ILLINOIS, *ss:*

Be it remembered that on the 22d day of June, A. D. 1878, came the United States of America, plaintiff, by Mark Bangs, its attorney for the northern district of Illinois, and filed in the office of the clerk of the circuit court of the United States for said district at Chicago, in the district aforesaid, a transcript of the record of the proceedings had in the district court of the United States for said district in said entitled
2 cause, which said transcript is in the words and figures following, to wit:

Transcript of the record of the proceedings in the district court of the United States for the northern district of Illinois.

3 Pleas in the district court of the United States in and for the northern district of Illinois, held in the city of Chicago, at the United States court-rooms, before the Hon. Henry W. Blodgett, district judge, and on Thursday, the 13th day of June, in the year of our Lord one thousand eight hundred and seventy-eight, and of our Independence the 103rd year.

W. H. BRADLEY, *Clerk.*

THE UNITED STATES OF AMERICA
v.
400 PACKAGES OF DISTILLED SPIRITS.

Information.—Filed Oct. 5th, '75.

Be it remembered that on this fifth day of October, in the year of our Lord eighteen hundred and seventy-five, J. D. Ward, attorney for the United States for the northern district of Illinois, comes into the district court of the United States of America, for the northern district of Illinois, and in the name and on behalf of the United States of America, gives the said court here to understand and be informed that heretofore, to wit, on the fifth day of August, in the year of our Lord eighteen hundred and seventy-five, to wit, at Chicago, in the northern district of Illinois, within the jurisdiction of this honorable court, one
4 J. D. Webster, who then and there was the collector of the internal revenue of the United States for the first collection-district of the State of Illinois, did seize, as forfeited to the use of said United States, the goods, wares, and merchandise following, that is to say: Four hundred packages of distilled spirits containing 26,355.58 gallons, and now hath the same in his custody, as being forfeited for the causes hereinafter mentioned, to wit:

For that the said distilled spirits heretofore, to wit, on or about the 8th day of April, 1875, were then and there distilled and owned by some person or persons to said attorney unknown, which person or persons then and there did engage in and carry on the business of a distiller with intent to defraud the United States of the tax on the spirits distilled by such person or persons contrary to the form of the statute of the said United States, in such case made and provided, whereby, and by force of said statute, the said distilled spirits have become and are forfeited to the said United States.

For that said distilled spirits were found elsewhere than in a distillery or distillery warehouse, not having been removed therefrom according to law, contrary to the form of the statute of the said United States in such cases made and provided, whereby, and by force of said statute, the said distilled spirits have become and are forfeited to the said United States.

For that prior to said seizure taxes were imposed by the provisions of the internal-revenue laws upon the said distilled spirits, and the same being so subject to the payment of taxes, as aforesaid, were
5 found by the said J. D. Webster, collector, in the possession and custody and within the control of a person or persons to said attorney unknown, for the purpose of being sold and removed by such person or persons in fraud of the internal-revenue laws, and with design to avoid payment of said taxes, contrary to the form of the statute of the said United States in such case made and provided, whereby, and by force of said statute, the said distilled spirits have become and are forfeited to the said United States.

And therefore, and by reason of all and singular the premises aforesaid, the said attorney of the United States, on behalf of the United States, prays the said court that due process issue, to enforce the said forfeiture of the said property so seized as aforesaid, and to give notice to all persons concerned in interest to appear and show cause on the return day of said process why such forfeiture should not be decreed.

J. D. WARD,
Att'y of the United States for the Northern Dis't of Ill's.

(Indorsed:) Filed October 5th, 1875. Wm. H. Bradley, clerk.

And thereupon, to wit, on the 5th day of October, A. D. 1875, a monition issued out of said clerk's office of said court, which, together with the marshal's return thereon endorsed, reads in the following words and figures, to wit:

6 UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

The United States of America to the marshal of the northern district of Illinois, greeting:

Whereas an information has been filed in the district court of the United States in and for the northern district of Illinois, on the 5th day of October, in the year of our Lord one thousand eight hundred and seventy-five, by J. D. Ward, district attorney of the United States of America, and in the name and on behalf of the United States of America, against 400 packages of distilled spirits, containing 26,355.58 gallons, for reasons and causes in said information mentioned, and praying the usual process and monition of the said court in that behalf to be made, and that all persons having or pretending to have any right, title, or interest therein, may be cited to appear and answer, all and singular, the mat-

ters in said information articulately propounded, and that this court would be pleased to pronounce for the condemnation and forfeiture of said distilled spirits, besides cost of suit:

You are, therefore, commanded to attach the said 400 packages of distilled spirits containing 26,355.58 gallons, and to detain the same in your custody until the further order of this court respecting the same, and to give notice, by publication for fourteen days previous to the day of trial, and by notice posted up in the most public manner, for the space of fourteen days, at or near the place of trial, of such seizure and
7 libel to all persons claiming the said distilled spirits, or knowing or having anything to say why this court should not pronounce against the same, according to the prayer of the said information, and that they be and appear before the said court to be holden in and for the northern district of Illinois at the United States court-room, in the city of Chicago, in said district on the first Monday in November next, if that be a day of jurisdiction, if not, then on the first day of jurisdiction thereafter, at 10 o'clock in the forenoon of that day, and then and there to interpose a claim to the same and to make their allegations in that behalf.

And what you shall have done in the premises do you then and there make return, together with this writ.

Witness the honorable Henry W. Blodgett, judge of said court, this 5th day of October, in the year of our Lord one thousand eight hnndred and seventy-five, and of our Independence the 100th year.

[L. S.] W'M H. BRADLEY, *Clerk.*

Marshal's return.

By virtue of the within monition I took possession of the property herein mentioned on the 5th day of October, A. D. 1875, and on the same day I delivered said property to Leonard C. Stebbins, claimant, by authority of an order of the United States district court, a certi-
8 fied copy of which order is returned herewith. I also gave notice by posting notices, and by publication, as I am herein commanded.

R. H. CAMPBELL,
U. S. Marshal.
By T. R. BIRD, *Dep'ty.*

(Indorsed:) Filed Jan. 17th, A. D. 1877. W'm H. Bradley, clerk.

And now, to wit, on the 5th day of October, A. D. 1875, the following petition and claim is filed, which is in the words and figures following, to wit:

Petition and claim.—Filed October 5th, 1875.

UNITED STATES OF AMERICA,
Northern District of Illinois:

District court of the United States.

The claim and petition of Leonard C. Stebbins in the matter of the information filed in behalf of the United States against four hundred barrels of high-wines, states as follows:

That the said Leonard C. Stebbins is the true and bona fide owner of said four hundred barrels of high-wines seized as aforesaid.

That the custody of said property seized will be attended with great loss and expense, and the said property will waste and deteriorate, as

petitioner believes, unless the same be released upon bond to be approved by this court.

9 And your petitioner therefore prays that appraisers be appointed and said property released upon execution of such bond.

LEONARD C. STEBBINS.

UNITED STATES OF ANERICA,
Northern District of Illinois:

Leonard C. Stebbins, the petitioner above, being sworn, says said petition is true.

LEONARD C. STEBBINS.

Sworn to before me this 5th day of October, 1875.

E. A. DRUMMOND,
U. S. Commissioner.

(Indorsed:) Filed Oct. 5th, 1875. Wm. H. Bradley, clerk.

And now, to wit, October 5th, A. D. 1875, in the record of the proceedings of said court in said cause is the following entry, to wit:

THE UNITED STATES
v.
400 BARRELS OF HIGH-WINES, LEONARD C. STEBBINS, claimant.

The marshal having returned on the monition issued herein, that he had seized upon 400 packages of high-wines, containing twenty-six thousand three hundred and fifty-five and fifty-eight one-hundredths (26,355.58) gallons, and had the same in his custody, and Leonard C. Stebbins having appeared and filed his claim to said property, as the

10 owner thereof, and having asked that the same may be released to him on bond in accordance with practice of this court in revenue cases; and it appearing from the appraisement filed herein, taken by William C. Egan, Edward F. Lawrence, and John E. Brown, that the aggregate value of said property so seized is twenty-eight thousand dollars ($28,000), and the said Leonard C. Stebbins having presented in open court the usual bond for the delivery to said claimant of said in the penal sum of fifty-six thousand dollars, which said bond is approved by the court and ordered to be filed in this cause; and which bond is in the words and figures following, to wit:

Bond.

In the district court of the United States, for the northern district of Illinois.

Know all men by these presents, that we, Leonard C. Stebbins, principal, and Edward F. Lawrence and James M. Ballentine, sureties, are held and firmly bound unto the United States of America, in the penal sum of fifty-six thousand dollars, lawful money of the United States of America, to which payment well and truly to be made we bind ourselves and each of us jointly and severally, firmly by these presents. Dated and sealed with ours seals this

Whereas four hundred barrels of high-wines, the property of Leonard C. Stebbins, situate in the city of Chicago, in said northern dis-

11 trict of Illinois, have been seized and are now in the custody and

under the control of said court, for alleged violation of the internal revenue laws of the United States, all of which said property has been appraised by appraisers appointed by the district court of the United States for the northern district of Illinois, in the aggregate sum of twenty-eight thousand dollars, as more fully appears by said appraisal and the proceedings herein on file in said court. And whereas the said Leonard C. Stebbins as claimant of said property is desirous of releasing the same from said seizure:

Now, therefore, the condition of this obligation is such that if the above-described property, or any part thereof, be adjudged to be forfeited by said district court or any court to which said cause may be removed, and if the above bounden Leonard C. Stebbins shall pay to the proper officers of the United States, or unto the said district court, the said full appraised value of said property, or of so much thereof as may be adjudged to be forfeited as aforesaid, then this obligation to be void; otherwise to remain in full force and effect. And in case of failure to perform the above condition and pay said appraised value aforesaid, or the appraised value of so much thereof as may be adjudged forfeited, we hereby consent and agree that a summary judgment and decree may be entered against us and each of us without notice, for the said appraised value of the property forfeited, with interest thereon
12 in accordance with the usual practice in proceedings for condemnation, and that execution may issue thereon against our goods, chattels, and lands for the payment of said judgment and interest as aforesaid.

LEONARD C. STEBBINS. [L. S.]
EDWARD F. LAWRENCE. [L. S.]
JAMES M. BALLENTINE. [L. S.]

(Indorsed:) Filed Oct. 5th, 1875. Wm. H. Bradley, clerk.

It is therefore ordered that the property seized as aforesaid be delivered to the said Leonard C. Stebbins.

And now, to wit, October 5th, A. D. 1875, come the claimant and by his attorney files the following stipulation, which is in the words and figures following, to wit:

Claimant's stipulations.

THE UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

District court, October term, 1875.

Whereas an information was filed in the court on the fifth day of October, A. D. 1875, by the United States against four hundred barrels of high-wines for the reasons and causes in the said information mentioned, and praying that the same may be condemned and forfeited; and, the said claimant, Leonard C. Stebbins, hereby consenting and agreeing that in case of default, or contumacy on the part of the said claimant,
13 execution may issue against their goods, chattels, and lands, for the sum of two hundred and fifty dollars:

Now, therefore, it is hereby stipulated and agreed, for the benefit of whom it may concern, that the stipulator undersigned is bound in the sum of two hundred and fifty dollars, conditioned that the claimant

above named shall pay all such costs as shall be awarded against him by this court, or, in case of appeal, by the appellate court.

L. C. STEBBINS.

Taken and acknowledged this 5th day of October, A. D. 1875, before me.

U. S. Commissioner.

NORTHERN DISTRICT OF ILLINOIS, *ss:*

Leonard C. Stebbins, party to the above stipulation, being duly sworn, depose' and say' that he reside' in the northern district of Illinois, and is worth the sum of five hundred dollars over and above all his debts and liabilities.

L. C. STEBBINS.

Sworn this 5th day of October, A. D. 1875, before me.

E. A. DRUMMOND,
U. S. Commissioner.

(Indorsed:) Filed October 5th, 1875. Wm. H. Bradley, clerk.

And now, to wit, on the 7th day of October, A. D. 1875, the following answer was filed, which is in the words and figures following, to wit:

District court of the United States for the northern district of Illinois.

14 THE UNITED STATES
v.
FOUR HUNDRED PACKAGES DISTILLED SPIRITS.

And now comes Leonard C. Stebbins, claimant of the property heretofore seized in this cause, and whose claim thereto has been heretofore filed herein, and for answer to the information filed herein says and pronounces as follows:

First. That it is not true as in the first article of said information is untruly alleged and pleaded.

Second. That it is not true as in the second article of said information is untruly alleged and pleaded.

Third. That it is not true as in the third article of said information is untruly alleged and pleaded.

Fourth. Wherefore the said respondent prays that the said property seized may be adjudged to be restored to him, and said information dismissed.

SIDNEY SMITH,
Attorney for Claimant.

(Indorsed:) Filed Oct. 7th, 1875. Wm. H. Bradley, clerk.

And now, to wit, May 29th, A. D. 1878, the following affidavit and petition is filed, which is in the words and figures following, to wit:

15 In the United States district court for the northern district of Illinois. In the May term, A. D. 1878.

THE UNITED STATES OF AMERICA
v.
FOUR HUNDRED PACKAGES OF DISTILLED SPIRITS.

Leonard C. Stebbins, claimant of said spirits, being duly sworn, on his oath says and respectfully represents that, on or about the first day

of May, A. D. 1875, he bona fide purchased said spirits of Roswell C. Mersereau, who had manufactured said spirits at his distillery in the city of Chicago, State of Illinois, and that the said spirits were in all respects regular and lawful; and that all lawful taxes imposed by law on said spirits were fully paid by said Mersereau in accordance with law before this affiant purchased said spirits as aforesaid, and that affiant believed when he made said purchase that said spirits were fully tax-paid and regular and lawful.

This affiant further says that he is informed and verily believes and states the fact to be that, on or about the 25th day of December, A. D. 1875, the attorneys and officers of said United States agreed with said Mersereau that if he would turn State's evidence and become a witness for said United States in relation to a conspiracy before then existing in the city of Chicago and vicinity, to defraud said United States of the lawful taxes on distilled spirits, and would, whenever required,
16 testify fully, fairly, and truthfully in relation to said conspiracy, then the said United States would abandon said suit and dismiss the same; and that said Mersereau, in accordance with said agreement, did thereafter turn State's evidence and become a witness for said United States in relation to said conspiracy, and did in all respects keep and perform his part of said agreement fully, fairly, and truthfully.

Affiant further says, that said spirits were seized by officers of said United States in the month of August, A. D. 1875, and not before, and that after said seizure this affiant gave bond for the release of said spirits, and they were released; and that the Hon. Mark Bangs, United States district attorney for said northern district, has heretofore recommended the compromise and release of said spirits for the sum of one hundred dollars, the same as in the cases of Roelle, Junker & Co. and B. M. Ford, Oliver & Co., by reason and because of the agreement made as aforesaid about turning State's evidence; and that affiant is informed and verily believes and states the fact to be, that the Hon. Alphonso Taft, the then Attorney-General of said United States, and the Hon. Green B. Raum, the Commissioner of Internal Revenue, in the month of January or February, A. D. 1877, recommended the compromise and dismissal of said suit for the sum of one hundred dollars; and that this case has always been treated and considered by the officers representing said United States as being included in the agreement to turn State's evidence made with said Roelle, Junker & Co., and B. M.
17 Ford, Oliver & Company any others.

Wherefore this affiant prays that the trial of this cause may be postponed, and that the same relief may be granted in this case as may be granted in the cases of Roelle, Junker & Co., and B. M. Ford and others.

LEONARD C. STEBBINS.

Subscribed and sworn to before me this 29th day of May, A. D. 1878.
[L. S.] GEORGE C. INGHAM, *N. P.*

Roswell C. Mersereau, being duly sworn, on his oath says that he has heard read the above and foregoing affidavit and petition of Leonard C. Stebbins, and that he knows the contents thereof, and that the matters and things therein stated are true in substance and fact.

ROSWELL C. MERSEREAU.

Subscribed and sworn to before me this 29th day of May, A. D. 1878.
[L. S.] GEORGE C. INGHAM, *N. P.*

(Indorsed:) Filed May 28th, 1878. Wm. H. Bradley, clerk.

And now, to wit, on the 13th day of June, A. D. 1878, in the record of the proceedings of said court in said cause is the following entry, to wit:

18 THE UNITED STATES OF AMERICA
v.
FOUR HUNDRED PACKAGES DISTILLED SPIRITS.

This day appeared the United States, by Mark Bangs, district attorney, and the claimant, Leonard C. Stebbins, by Charles H. Reed, his attorney.

And the said claimant moves the court for leave to withdraw his claim to the distilled spirits seized in this cause, and against which the information herein is filed.

And said claimant further moves the court that leave be granted Roswell C. Mersereau to be substitued as claimant herein in the stead of him, said Stebbins, so far as to enable said Roswell C. Mersereau to set up herein whatever claim he may have to said spirits or to the release of the same from forfeiture, by reason of any right to immunity which he may have acquired by becoming a witness of the United States.

And upon full consideration, it is ordered by the court that leave be granted said claimant, Leonard C. Stebbins, to withdraw his said claim, and that leave be granted said Roswell C. Mersereau, as prayed, to be substituted as claimant herein, in the stead of said Leonard C. Stebbins; whereupon said Leonard C. Stebbins withdraws his claim to said distilled spirits.

And thereupon appears said Roswell C. Mersereau, by Charles H. Reed, his attorney, and prays that he may be substituted, as aforesaid, as claimant, and become party claimant herein, so far as to set up whatever claim he may have to said spirits, or to release of the same
19 from forfeiture by reason of any right to immunity which he may have acquired as aforesaid; which leave is granted, and said Roswell C. Mersereau files his claim herein accordingly, and his written stipulation herein admitting the causes of forfeiture of said distilled spirits, in the information herein set forth.

And thereupon said Roswell C. Mersereau, claimant, presents to the court his bond in the penal sum of fifty-six thousand dollars with Abner Taylor and Elias Shipman as sureties, which said bond is in the words and figures following:

Know all men by these presents, that we, Roswell C. Mersereau, principal, and Abner Taylor and Elias Shipman, sureties, are held and firmly bound unto the United States of America in the penal sum of fifty-six thousand ($56,000) dollars, lawful money of the United States of America, to which payment well and truly to be made we bind ourselves and each of us, jointly and severally, firmly by these presents, dated and sealed with our seals this eleventh day of June, A. D. 1878.

Whereas four hundred barrels of high-wines, the property of Roswell C. Mersereau, situate in the city of Chicago, in said northern district of Illinois, have been seized and are now in the custody and under the control of said court for alleged violation of the internal-revenue laws of the United States; all of which said property has been appraised by
20 appraisers appointed by the district court of the United States for the northern district of Illinois, in the aggregate sum of twenty-eight thousand dollars, as more fully appears by said appraisal and the proceedings herein on file in said court; and whereas the said Roswell C. Mersereau, as claimant of said property, is desirous of releasing the same from said seizure:

Now, therefore, the condition of this obligation is such that if the above described property, or any part thereof, be adjudged to be forfeited by said district court or any court to which said cause may be removed; and if the above bounden Roswell C. Mersereau shall pay to the proper officers of the United States, or unto the district court of the United States aforesaid, the said full appraised value of said property or of so much thereof as may be adjudged to be forfeited as aforesaid, then this obligation to be void, otherwise to remain in full force and effect; and in case of failure to perform the above condition and pay said appraised value aforesaid or the appraised value of so much thereof as may be adjudged forfeited, we hereby consent and agree that a summary judgment and decree may be entered against us and each of us, without notice, for the said appraised value of the property forfeited, with interest thereon, in accordance with the usual practice in proceedings for condemnation, and that execution may issue thereon against our goods, chattels, and lands for the payment of said judgment and interest as aforesaid.

ROSWELL C. MERSEREAU. [L. S.]
ELIAS SHIPMAN. [L. S.]
21 ABNER TAYLOR. [L. S.]

(Endorsed:) Filed June 13th, 1878. Wm. H. Bradley, clerk.

And said Roswell C. Mersereau moves that said bond be accepted in lieu of that given herein by Leonard C. Stebbins, and it appearing that said spirits have by said Leonard C. Stebbins been delivered to said Roswell C. Mersereau, said bond is accordingly accepted.

And now, to wit, June 13th, A. D. 1878, in the record of the proceedings of said court in said cause is the following entry, to wit:

THE UNITED STATES OF AMERICA
v.
FOUR HUNDRED PACKAGES DISTILLED SPIRITS.

Now come Edward F. Lawrence and James M. Ballentine, sureties, with Leonard C. Stebbins as principal, on the bond filed herein on the fifth day of October, A. D. 1875, in the penal sum of twenty eight thousand dollars, by Charles H. Reed, their attorney, and move the court that they be discharged from said bond; and it appearing to the court that a new bond has been given and accepted herein in place of said bond, it is thereupon ordered that said Edward F. Lawrence and James M. Ballentine be discharged from said bond filed herein
22 on the fifth day of October, A. D. 1875.

And now, to wit, on the 13th day of June, A. D. 1878, the following plea is filed, which is in the words and figures following, to wit:

In the United States district court for the northern district of Illinois.
In the May term, A. D. 1878.

THE UNITED STATES OF AMERICA
v.
FOUR HUNDRED PACKAGES DISTILLED SPIRITS,
Roswell C. Mersereau, claimant.
} Information.

And now comes said Roswell C. Mersereau by his attorneys and claims said spirits, and says that the said United States ought not to further

maintain or prosecute said suit, because he says that on and for several years prior to the 10th day of May, A. D. 1875, he was a distiller in the city of Chicago in said northern district of Illinois, and that on said 10th day of May, A. D. 1875, the officers of said United States seized his distillery for alleged violations of the internal revenue laws of said United States in relation to the manufacture of distilled spirits; and that afterwards, to wit, in the month of August, A. D. 1875, the officers of said United States seized the said 400 packages of distilled spirits for the purpose of condemning and forfeiting the same; and that in the month of December, A. D. 1875, the attorneys and authorized agents
23 and officers of said United States agreed with him, said Mersereau, that if he would turn state's evidence and become a witness for said United States and testify fully, fairly, and truthfully whenever required, in relation to a conspiracy between certain officers of said United States and other persons, whereby the said United States had been defrauded of a large amount of lawful revenue on distilled spirits in said district, and would plead guilty to one good count in an indictment then pending against him, said Mersereau, that there, and in that case, the said United States would dismiss and not further prosecute this suit; and that he, said Mersereau, should have and receive entire criminal immunity and exemption from punishment for his connection with said conspiracy.

And the said claimant, Roswell C. Mersereau, avers that, in pursuance of said agreement, he did turn State's evidence and become a witness for said United States, and did, whenever required, testify for and in behalf of said United States, fully, fairly, and truthfully, in relation to said conspiracy; and that he, said Mersereau, has, in all respects, fully and faithfully kept and performed the said agreement on his part, and this he is ready to verify.

Wherefore he prays judgment, &c.

CHAS. H. REED,
His Attorneys.

By D. W.

24 (Indorsed:) Filed June 13th, 1878. W'm H. Bradley, clerk.

And now, to wit, on the 13th day of June, A. D. 1878, the following demurrer to plea is filed, which is in the words and figures following, to wit:

In the district court of the United States of America for the northern district of Illinois. May term, 1878.

THE UNITED STATES
v.
FOUR HUNDRED PACKAGES DISTILLED SPIRITS.

And Mark Bangs, United States attorney for the district aforesaid, who for the said United States in this behalf prosecutes, as to the plea of Roswell C. Mersereau, claimant, herein pleaded, for the United States says, that the said plea and the matters therein contained, in manner and form, etc., are not sufficient in law to bar the said United States, etc., and that he is not bound by law to answer the same; and this the said attorney, who prosecutes as aforesaid for the said United States, is ready to verify. Wherefore, for want of a sufficient plea in this behalf, the said attorney, who prosecutes as aforesaid for the said United States, prays judgment, etc.

MARK BANGS,
U. S. Attorney.

25 (Indorsed:) Filed June 13th, 1878. W'm H. Bradley, clerk.

And now, to wit, June 13th, A. D. 1878, in the record of the proceedings of said court in said cause is the following entry, to wit:

THE UNITED STATES OF AMERICA
v.
FOUR HUNDRED PACKAGES DISTILLED SPIRITS. } Information.

And now comes the district attorney and comes also the claimant, Roswell C. Mersereau, by Charles H. Reed, esq., his attorney, and by agreement submit to the court the demurrer of the United States to the plea of said claimant, filed herein, alleging that said claimant had been used as a witness by the United States in criminal transaction against their accomplices, and had thereby become entitled to immunity from the forfeiture, prays in this case by reason of an agreement made with the plaintiff, and the court being now fully advised as to said demurrer, doth find, both from the admissions made by said demurrer and also from facts appearing upon the records and with the judicial knowledge of the court, that said claimants were used as witnesses by the government in criminal cases against their associates, upon the promise and understanding that this case should be no further prosecuted. It is thereupon ordered that said demurrer be overruled and this case
26 is dismissed, both by reason of the defense set up in said plea and also because of the finding of the court from the facts appearing in the record, and within the judicial knowledge of the court, that this cause ought to be no further prosecuted by the plaintiff.

And thereupon the United States, by Mark Bangs, district attorney, prays an appeal to the circuit court of the United States, which is allowed by the court.

NORTHERN DISTRICT OF ILLINOIS, *ss:*

I, William H. Bradley, clerk of the district court of the United States for the northern district of Illinois, do hereby certify the foregoing to be a full, true, and complete transcript of the record and proceedings had in the case of the United States of America v. Four Hundred Packages of Distilled Spirits, as the same appears from the original thereof now remaining in my custody.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Chicago this 19th day of June, A. D. 1878, and of our Independence the 103rd year.

[SEAL.] W'M H. BRADLEY, *Clerk.*

27 Afterwards to wit, on the 22d day of June, A. D. 1878, in the adjourned May term of said court in the record of the proceedings thereof in said entitled cause before the Hon. John M. Harlan, one of the justices of the Supreme Court of the United States, is the following entry, to wit:

THE UNITED STATES OF AMERICA
v.
FOUR HUNDRED PACKAGES OF DISTILLED SPIRITS. }

Now comes the district attorney and now come also the claimants of said property, by Edmund Jussen and Charles H. Reed, their attorneys,

and hereafter this cause is set down for hearing upon the record from the district court filed herein, and after hearing a part of the arguments of counsel the hour of adjournment having arrived the further hearing is postponed until Monday morning next.

Afterwards, to wit, on the 24th day of June, A. D. 1878, in the said adjourned May term of said court in the record of the proceedings thereof in said entitled cause before the Hon. John M. Harlan, one of the judges of the Supreme Court of the United States, is the following entry, to wit:

THE UNITED STATES OF AMERICA
vs.
FOUR HUNDRED PACKAGES OF DISTILLED spirits.

28 Now come again the district attorney and the claimants by their attorney, and after hearing the concluding arguments of counsel upon the issue herein the court takes the same under advisement.

Afterwards, to wit, on the 30th day of September, A. D. 1878, in the July term of said court in the record of the proceedings thereof, in said entitled cause, before the Hon. John M. Harlan, one of the justices of the Supreme Court of the United States, is the following entry, to wit:

THE UNITED STATES OF AMERICA
v.
FOUR HUNDRED PACKAGES OF DISTILLED spirits.

This cause having been heretofore set down for hearing upon the record from the district court herein and heard by the court and taken under advisement, and the court having considered and being now sufficiently advised in the premises, affirms the judgment of the district court herein. It is thereupon considered by the court that this cause be dismissed.

29 NORTHERN DISTRICT OF ILLINOIS, *ss:*

I, William H. Bradley, clerk of the circuit court of the United States for said district, do hereby certify the above and foregoing to be a true, correct, and complete transcript of the record of all the proceedings had in said court, in the cause wherein the United States of America is the plaintiff and Four Hundred Packages of Distilled Spirits is the defendant, as appears from the files and records of said court now remaining in my custody and control.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at my office in Chicago, in said district, this 15th day of October, A. D. 1878, and of our Independence the 103d year.

[SEAL.] WM. H. BRADLEY, *Clerk.*

30 UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

The United States of America to the judges of the circuit court of the United States for the northern district of Illinois, greeting:

Because in the record and proceedings, as also in the rendition of a

judgment in a plea which is before you in said circuit court between the United States of America, plaintiff, and Four Hundred Packages of Distilled Spirits, defendant, and Roswell C. Mersereau, claimant, a manifest error hath happened, to the great damage of the said The United States of America as by their complaint appears, and it being fit that the error, if any there has been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be given therein, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October, A. D. 1878, in the Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the Hon. Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this thirtieth day of September, in the year of our Lord one thousand eight hundred and seventy-eight, and of the Independence of the United States the 103d year.

[SEAL.] WM. H. BRADLEY, *Clerk.*

(Indorsed:) Supreme Court of the United States. United States of America vs. Four Hundred Packages of Distilled Spirits, & Roswell C. Mersereau, claimant. Writ of error.

31 UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

To Roswell C. Mersereau, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October, A. D. 1878, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the northern district of Illinois, wherein The United States of America are plaintiffs, Four hundred Packages of Distilled Spirits defendant, and Roswell C. Mersereau claimant, to show cause, if any there be, why the errors in said writ mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Hon. Henry W. Blodgett, judge, this 9th day of October, in the year of our Lord one thousand eight hundred and seventy-eight.

H. W. BLODGETT, *Judge.*

32 I hereby accept service of the within writ of citation, and enter the appearance of the within-named Roswell C. Mersereau, claimant.
Chicago, Oct. 10, 1878.

(Indorsed:) 893. Supreme Court of the United States. The United States of America vs. Four hundred Packages of Distilled Spirits, etc. Citation to October term, A. D. 1878.

I have served the within writ of citation upon Charles H. Reed, attorney of record for the within-named claimant, Roswell C. Mersereau, by personally delivering a true copy of the same to said Reed this 10 day of October, A. D. 1878.

I also personally served the same on Edward Jussen, one of the attorneys, by reading the same to him this 10 day of October, A. D. 1878.

J. S. HILDRUP, *U. S. Marshal.*
D. D. SABIN, *Deputy.*

Marshal's fees: 2 service, 4.00.

(Indorsement on cover:) No. 935. The United States, plaintiffs in error, vs. Four hundred Packages of Distilled Spirits; Roswell C. Mersereau, claimant. N. Illinois C. C. U. S. Filed 21st October, 1878.